

DEPARTMENT OF JUSTICE

CIVIL RIGHTS DIVISION

Voting

UNITED STATES v. DALLAS COUNTY {

Briefs

Briefs - U.S. v. Dallas County, Ala.  
1971 (B-2)

(Dallas County, Ala.)

72-345

13,725

*Filed during trial  
ask*

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
V. )  
 )  
DALLAS COUNTY, ET AL., )  
 )  
Defendants. )  
\_\_\_\_\_ )

CIVIL ACTION NO. 3064-63

MEMORANDUM OF LAW

The motions to dismiss this action as to the defendant  
Dallas County should be denied.

In paragraph 42 and 43 of their omnibus Motion to  
Dismiss and by the defendant County's separate motion,  
the defendants have moved to dismiss this action as to  
Dallas County on the grounds that the Complaint does not  
allege that the County or its officers participated in  
any wrongful act and simply that the County is not a proper  
party defendant under 42 U.S.C. 1971(b) and (c).

The defendants' motions can not be granted on the ground that the County's officers have not factually engaged in unlawful conduct because the Complaint is replete with allegations that they have, and such a factual dispute can not be resolved against the plaintiff on a motion to dismiss. Dow v. Shoe Corp. of America, 276 F.2d 165 (C.A. 7, 1960); Lennie & Laughlin, Inc. v. Chrysler Corp., 242 F.2d 208 (C.A. 9, 1957). Nor should legal questions about the responsibility of a governmental entity for the acts of its officers be resolved on a motion to dismiss. Builders Corp. of America v. United States, 239 F.2d 766, 770-71 (C.A., 1956).

If Dallas County's capacity to be sued is viewed as a question to be determined by the law of Alabama,<sup>1</sup> that question is answered in the affirmative by Title 12, Section 3 of the Alabama Code (1940):

Every county is a body corporate, with power to sue or be sued in any court of record.

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1/ The pertinent portion of Rule 17(b), F.R.Civ.P. states "...capacity to sue or be sued shall be determined by the law of the state in which the district court is held...."

If the suability of the county turns solely on federal law because this case involves the enforcement in equity of a substantive federal right,<sup>2</sup> it is equally clear that Dallas County is a proper party defendant.

First, although the pertinent legislative history of 42 U.S.C. 1971 is not conclusive on this issue, it clearly suggests that counties may be sued in appropriate factual circumstances. Thus, the report of the minority of the House Judiciary Committee states at page 47, Report No. 291 (to accompany H.R. 6127), 85th Congress, 1st Session, August 1, 1957, that this statute authorizes by the Attorney General:

...relentless pursuing of the State, county, and municipal machinery, and each and every person that someone thinks has violated some one of the provisions of part IV.

Similarly, the report of the majority states, at page 13 of the same document:

Therefore, the sovereign, acting within its constitutional jurisdiction, must preserve this fundamental and basic right [to vote] against all unlawful interference (emphasis added).

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2/ Rule 17 has been held inapplicable to non-diversity cases involving the implementation of a substantive federal right. Briggs v. Pennsylvania R.Co., 153 F.2d 841, 842 (C.A. 2, 1946). See also Sola Electric Co. v. Jefferson Electric Co., 317 U.S. 173, 176 (1942); Holmberg v. Armbrecht, 327 U.S. 392, 395 (1946); O'Dench, Duhne & Co. v. F.D.I.C., 313 U.S. 447, 455-56 (1942); Deitrick v. Greanoy, 309 U.S. 190, 200 (1939); Board of Commissioners v. United States, 308 U.S. 343 (1939); Clearfield Trust Co. v. United States, 318 U.S. 363 (1943).

Second, Dallas County is an appropriate defendant in these factual circumstances. The County has not urged that this case involves some unwarranted ultra vires aberration by one or several of its officers. On the contrary, its full resources are committed to defending the conduct of its officials as the proper exercise of a governmental function. That its funds and personnel are defending this lawsuit on the merits discloses its involvement as a county.

Third, 42 U.S.C. 1971(b) begins: "The person...." Whether bodies corporate such as Dallas County, are "persons" is also answered in the affirmative by 1 U.S.C. 1 which states, in part:

In determining the meaning of any Act of Congress...the words "person" and "whoever" include corporations...as well as individuals....

Fourth, even if Dallas County were not a person under subsection (b), the suit is nevertheless appropriate because the relief portion of the statute, subsection (c), does not contain any limitation as against whom relief may run. And the Supreme Court has held that similar remedial statutes should be construed broadly so as to effectuate congressional policy. Plumbers' Union v. Door County, 359 U.S. 345, 358 (1959) (county held to be a person within the meaning of the National Labor Relations Act because such construction furthers congressional policy); see also Sims v. United States, 359 U.S. 108, 112 (1959).

Also, Dallas County should be a defendant for remedial purposes because it, not any individuals defendant, is a continuing entity and practices such as these must be stopped permanently. It is settled doctrine that entities from which relief is sought ought to be made parties, whatever the extent of their participation in the wrongdoing. Commonwealth Trust Co. v. Smith, 266 U.S. 152 (1924); Miles-Bement-Ford Co. v. Iron Moulders' Union, 234 U.S. 77 (1920); Poneroy, Equity Jurisprudence 152, 153, 114(5th Ed. (1941)).

Fifth, if these Negro victims sought to enjoin the defendants' illegal conduct pursuant to an analogous statute (42 U.S.C. 1983), they could sue the municipality (if appropriated) or, presumably, the County. Adams v. City of Park Ridge, 293 F.2d 585, 387 (C.A.7, 1961); Barley v. Patterson, 199 U.Supp. 393, 614-15 (Rives dissenting)(S.D. Miss., 1961). It would be anomalous to hold that the federal government's authorizing statute is not equally broad.

Finally, the Civil War Amendments and their implementing legislation were intended to prevent certain conduct on the part of states and their subdivision. The practice of suing state officers individually arose not only because states act through their officers, but also because the sovereign immunity doctrine barred suits against states and, to some extent, impeded suits against

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their subdivisions. Where, as here, no such problems exist, suit should be against the county not only because that is in keeping with the original intention, but also, to compel Dallas County to meet its responsibilities preserves to the county its traditional functions which, momentarily, it wishes to shirk.

For the foregoing reasons, the motions to dismiss the action as to the defendant Dallas County should be denied.

Respectfully submitted,

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WARREN R. JANSEN, JR.  
United States Attorney

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JOHN DEAR  
Attorney  
Department of Justice



Plaintiff's Right to Present Oral and Other Evidence at a Hearing  
on Plaintiffs -- Motion for A Preliminary Injunction

Rule 65 (a) provides that no preliminary injunction shall be issued without notice to the adverse party. And rule 65 (b) several times refers to the fact that a hearing is to be had on a temporary injunction.

In Sims v Greene 161 F2d 87 (3rd cir. 1947) the question presented was whether it was error to grant a preliminary injunction where the affidavits and pleadings filed by one side conflicted with those filed by the other. The CCA (Bigs, J) held that where such conflicts exist they " . . . must be resolved by oral testimony since only by hearing the witnesses and observing their demeanor on the stand can the trier determine the veracity of the allegations heard the trial court will be left in the position of preferring one piece of paper to another." (86)

The court goes on to argue that since rule 65 (a) provides for notice to adverse party, notice implies an opportunity to be heard. And a hearing requires a trial of the issue of ~~the~~ issue of fact. And this entails an opportunity to present evidence.

Also, since trial court is required under rule 52 (a) to make findings of fact, this necessitates that there have been evidence which could be weighed and appraised by the court.

In Hawkins v Board of Control of Florida 253 F 2d 752 (5th cir. 1958) the Sims case was followed and explicitly applied to a case in which the trial court denied the plaintiff's motion for a preliminary injunction without permitting the plaintiff to present evidence in his behalf at the hearing. The 5th circuit panel reversed the denial in a per curiam opinion.

It should be noted that both in Hawkins and in City Line we do not know whether any affidavits were submitted.

The one case which is, perhaps, contra to Sims is Ross-Whitney v Smith Kline 207 F 2d 190 (9th cir. 1953). Here the District Court had granted the preliminary injunction solely on the affidavits and counter-affidavits submitted by both parties. The appellant appealed on the grounds that the judge should have taken oral testimony. The Court of Appeals affirmed the trial judge on the ground that the injunction was merely a device to preserve the status quo pending a hearing on the permanent injunction. The Court also held that there was no error because there had been no significant disputed questions of fact raised by the affidavits.

Recommendation

If the defendants were to move that the case be submitted by both sides on affidavits without any oral testimony I would argue, at least:

- (1) Sims v Greene holds that the judge must resolve disputed questions of fact ~~known~~ by hearing and evaluating oral testimony.
- (2) Hawkins v Board of Control adopts the rule in Sims v Greene for the 5th Circuit.
- (3) The rejection in Ross-Whitney of Sims is dictum because the court held there were no substantial, disputed questions of fact.
- (4) No case has ever permitted a judge to deny a preliminary injunction solely on the affidavits where: (a) The plaintiff's factual allegations, if true, stated a case for relief and (2) there were disputed questions of fact.

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
DALLAS COUNTY, ALABAMA, )  
Et al., )  
 )  
Defendants, )  
 )

CIVIL ACTION NO. \_\_\_\_\_

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFF'S  
APPLICATION FOR TEMPORARY RESTRAINING ORDER  
AND MOTION FOR PRELIMINARY INJUNCTION

Statement

This case involves the illegal arrest and prosecution of two Negro voter registration workers in Dallas County, Alabama. It seeks to prevent the defendants from continuing to press their baseless charges.

The Complaint alleges that the two Negroes, Bernard Lafayette, Jr. and Bosie Reese, have been encouraging and assisting Negro citizens of Dallas County to become registered voters. They are associated with the Student Non-Violent Coordinating Committee and the Dallas County Voters League. These are predominantly Negro groups which encourage Negroes to register to vote by conducting door to door

campaigns, arranging mass meetings, and holding registration clinics.

Lafayette, who is a Field Secretary for the Student Non-Violent Coordinating Committee. Was arrested on June 18, 1963 by agents of the defendant Clark, Sheriff of Dallas County, and he was charged by Clark with vagrancy. He was acquitted at his trial on June 20 at which the evidence adduced disclosed the charge against him to be without foundation.

On June 17, the day before Lafayette's arrest, Rosie Reese, a young Negro from Selma who was assisting Lafayette in his voter registration work, was in the county courthouse observing the progress of registration in order to report on it to Lafayett. Twice he was ordered to leave, which he did. Nevertheless, for no apparent reason, Sheriff Clark arrested him for "resisting arrest and conduct calculated to breach the peace." Reese was manhandled by Clark and his associates and taken to jail, where he remained until June 20, when he was released on bond. His trial is scheduled for June 27, 1963 in the Dallas County Court.

Argument

The factual and legal requisites for preliminary relief against the acts of the defendants are clearly present in this case.

First, Congress has authorized the relief sought.

The pertinent provisions of Part IV of the Civil Rights Act of 1957 (42 U.S.C. 1971 (b), (c), (d); 71 Stat. 637) authorize the Attorney General to bring suit in the United States district courts to prevent any person from interfering by threats, intimidation, or coercion or attempted threats, intimidation or coercion - with the right of any other person to vote for the candidates for federal offices.<sup>1</sup>

1/ The Statute provides:

(b) No person, whether acting under color of law or otherwise shall intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other person for the purpose of interfering with the right of such other persons to vote or to vote as he may choose, or of causing such other person to vote for, or not to vote for, any candidate for the office of President, Vice President, presidential elector, member of the Senate, or Member of the house of Representatives, Delegates or Commissioners from the Territories or possessions, at any general, special, or primary election held solely or in part for the purpose of selecting or electing any such candidate.

(c) Whenever any person has engaged or there are reasonable grounds to believe that any person is about to engage in any act or practice which would deprive any other person of any right or privilege secured by subsection (a) or (b), the Attorney General may institute for the United States, or in the name of the United States, a civil action or other proper proceeding for preventive relief, including an application for a permanent or temporary injunction, restraining order, or other order. In any proceeding here-under the United States shall be liable for costs the same as a private person.  
(Cont'. on p.3.)

Moreover, Congress foresaw the need for the emergency relief sought by this motion and empowered the Attorney General to make ".....application for a permanent or temporary injunction, restraining order, or other order."<sup>2</sup>

As the complaint in this case alleges, under the law of Alabama registration for voting is a prerequisite to voting in any election, including federal elections.<sup>3</sup> Therefore, to threaten, intimidate, or coerce any person, or to attempt to do so for the purpose of interfering with his efforts to register is to violate rights secured by 42 U.S.C. 1971 (b).<sup>4</sup>

Second, the traditional legal requisites for emergency relief are present here. Pursuant to Rule 65 of the Federal Rules of Civil Procedure, if certain conditions are met, preliminary injunctive relief is appropriate to preserve the status quo until the rights of the parties can be fully

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(d) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this section and shall exercise the same without regard to whether the party aggrieved shall have exhausted any administrative or other remedies that may be provided by law.

2/ 42 U.S.C. 1971(c), supra.

3/ Code of Alabama, Title 17, Section 12 (1940)

4/ See United States v. Dogan, 314 F. 2d 767, 771 (C.A. 5, 1963).

determined by trial. Doeskin Products, Inc. v. United Paper Co., 195 F. 2d 356 (C.A. 7). The aforementioned conditions are: (1) there must be a showing of irreparable injury, Meiselman v. Paramount Film Distributing Corp., 180 F. 2d 94 (C.A. 4); (2) although the applicant need not show with certainty that he will win ultimately, he must show a reasonable probability of success, Burlington Mills Corp. v. Roy Fabrics, 91 F. Supp. 39 (D. N. Y. ), aff'd. 132 F. 2d 1020; Burton v. Natanuska Val. Line, Inc., 244 F. 2d 647 (C.A. 9); Acme Fast Freight v. United States, 135 F. Supp. 823 (D. Del.); (3) the inconvenience or injury possibly resulting to the parties from granting or withholding the relief sought must be compared, American Federation of Musicians v. Stein, 213 F. 2d 679 (C.A. 6), cert. den. 348 U.S. 873; Borden Co. v. McCrory, 169 F. Supp. 197 (D. La.).

The United States has a vital interest in the right of citizens to register and vote without distinction of race, and in their right not to be interfered with in the exercise of the franchise. United States v. Raines, 362 U.S. 17, 27 (1960); United States v. Wood, 295 F. 2d. 772

(C.A. 5, 1961). For more than two years the United States has been attempting to secure to the Negro citizens of Dallas County their right to register and vote without distinction or interference based on race. See United States v. Atkins, 210 F. Supp. 441 (S.D. Ala., 1962) (presently on appeal to Court of Appeals for the Fifth Circuit, No. 20,325). The plaintiff's interest will be irreparable harmed if the defendants' conduct, as alleged in the Complaint and supporting affidavits is allowed to be consummated.

Next on the basis of the facts alleged and to be determined at an eventual hearing on the merits, there is a clear probability that the plaintiff will prevail. Not only has Congress authorized the relief sought, but the Court of Appeals for this Circuit has so ruled in a case indistinguishable from this one. In United States v. Hood, supra, the court held the United States to be entitled to emergency injunctive relief against imminent state criminal proceedings against a Negro registration worker who had become involved in a fracas at the office of the registrar of voters.

Also to grant the relief sought can work no hardship to the defendants, whereas to withhold it will irreparably injure the plaintiff because the harm accruing from their proposed course of conduct could not be undone -- whatever the outcome of the state proceedings. If those proceedings are delayed the defendants are at worst inconvenienced. If they take place before the merits of this action can be fully determined the United States is irreparably harmed because the proceedings themselves are intended to accomplish the forbidden intimidation.

Finally, although it is settled that absent extraordinary circumstances the federal courts should not enjoin



state court proceedings, and although such proceedings are an uncommon form of the intimidation forbidden by section 1971 (b), we submit that the facts here, as in the Hood case, above, warrant the relief sought.

CONCLUSION

For the above reasons plaintiff urges this Court to grant its application for an order to show cause and a temporary restraining order.

Respectfully submitted,

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JOHN DOLR  
Attorney  
Department of Justice

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D. ROBERT OWEN  
Attorney  
Department of Justice

DEPARTMENT OF JUSTICE

CIVIL RIGHTS DIVISION

Voting

UNITED STATES v. DALLAS COUNTY

Pleadings

Pleadings. U.S. v. Dallas County, Ala.  
(Dallas County, Ala.) 1911/132

72 3-45

13,725

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,

v.

DALLAS COUNTY: JAMES G.  
CLARK, JR., Sheriff of  
Dallas County, Alabama;  
BLANCHARD MCLEOD, Circuit  
Solicitor of the Fourth  
Judicial District of Ala-  
bama; HENRY REESE, County  
Solicitor of Dallas County,  
Alabama,

Defendants.

C O M P L A I N T

Plaintiff, United States of America, alleges that:

1. This action is brought under 42 U.S.C. 1971(a),  
(b) and (c).

2. This Court has jurisdiction of this action  
pursuant to 42 U.S.C. 1971(d) and pursuant to 28 U.S.C.  
1345.

3. Dallas County is a political and geographic  
subdivision of the State of Alabama and is organized and  
is existing under the laws of that State.

4. James G. Clark, Jr., is the sheriff of Dallas  
County, Alabama and as such is authorized to enforce the  
laws of Alabama within Dallas County. He resides in  
Dallas County.

5. Blanchard McLeod is the Circuit Solicitor of the Fourth Judicial District of Alabama which includes Dallas County and as such is authorized to prosecute violations of the laws of Alabama occurring within Dallas County. He resides in Camden, Alabama, which is in Wilcox County, Alabama.

6. Henry Reese is the County Solicitor of Dallas County, Alabama and as such is authorized to prosecute violations of the laws of Alabama occurring within Dallas County. He resides in Dallas County.

7. Under Alabama law, registration for voting is a prerequisite for voting in any election, including voting for any candidate for the office of President, Vice President, Presidential elector, Member of the Senate and Member of the House of Representatives of the United States.

8. There are approximately 14,400 white persons and 15,115 Negroes of voting age residing in Dallas County. Of these, approximately 9,000 white persons and 250 Negroes are registered to vote.

9. On April 13, 1961, the United States filed an action under 42 U.S.C. 1971 against the registrar of voters in Dallas County claiming that the defendants, in administration of the registration in Dallas County, had discriminated against Negro citizens. On November 15, 1962, this Court entered its findings and conclusions and found that since January 1, 1952 and December, 1960, the registrar of voters in Dallas County had rejected for registration many qualified Negroes. United States v. Atkins, Civil Action No. 2584. It was further found that the new board of registrars had engaged in discriminatory conduct. [An appeal is presently pending in the United States Court of Appeals for the Fifth Circuit.

10. Early in 1963, members of the Dallas County Voters League, a local organization of Dallas County Negroes whose purpose is to encourage and assist Negro citizens of Dallas County to become registered voters, invited Bernard Lafayette, Jr., a field Secretary for the Student Non-violent Coordinating Committee (hereafter referred to as SNCC), an organization whose purpose is to improve the status of Negro citizens by non-violent means, to Dallas County to assist the local voters' league in their efforts to encourage and assist Dallas County Negroes in becoming registered voters.

11. Pursuant to this request on February 10, 1963, Bernard Lafayette came to Dallas County and with the local voters' league set up a program designed to encourage and assist Dallas County Negroes in becoming registered voters. This program included the establishment of classes or voter clinics in which local Negroes are instructed as to the procedures for registering to vote, the holding of mass meetings to encourage interest in voter registration, the distribution of leaflets and other materials to Dallas County Negroes announcing these voter registration activities; and the keeping of records on the progress of registration of Negroes in Dallas County.

12. As a result of the interest generated by the activities of the SNCC workers and the local voter league, approximately 90 Negro citizens have attended the voter clinics since January 29, 1963, and 400-500 Negro citizens attended each of the two mass meetings held May 14 and June 17, 1963. These meetings were held in local Negro churches, all of which activity resulted in many Negro citizens attempting to register to vote in Dallas County.

13. The registration activities described in paragraphs 11 and 12 were known to the defendants. The mass meeting of May 14 was widely publicized in the local press and agents of defendant Clark observed both of the meetings and were stationed inside and outside the churches during the meetings.

14. On the afternoon of June 17, 1963 Bosie Reese, a young local Negro and Alexander L. Brown another Negro from Birmingham, Alabama who had been assisting Bernard Lafayette and the local voters' league in the described registration activities, were at the Dallas County Courthouse to observe and report to the league the number and names of Negro citizens applying for registration that afternoon. Both were conducting themselves in an orderly manner. They arrived before the registration office was open after lunch. Brown took a snapshot of a Negro who came to register while the office was closed for lunch. After the office opened at about 2:00 p.m. two Negro citizens appeared to apply. Brown left the courthouse, and Reese remained standing in the hall, conducting himself in a quiet and orderly manner. Defendant Clark questioned Reese as to his identity and reasons for being in the courthouse and asked Reese to leave and not loiter, which Reese did. When Brown returned both Reese and Brown went back into the courthouse. Shortly thereafter an unidentified white male asked both of them to leave, which they did. As they neared the exit of the courthouse defendant Clark grabbed Reese and shoved him into the sheriff's office. There he was slapped, kicked and hit by defendant Clark and other law enforcement officials and was questioned by Clark as to whether he worked with Bernard Lafayette. He was then

charged by the defendant Clark for resisting arrest and engaging in conduct calculated to breach the peace. He was then jailed on \$1500 bond, where he remained until Thursday, June 20, 1963, when he was released on \$1000 bond.

15. On the night of June 17, 1963 Bernard Lafayette attended the aforesaid mass meeting at the First Baptist Negro Church, and he spoke urging the Negroes in attendance to register to vote. Agents of defendant Clark, deputies Bates and Suther, were stationed inside the church at the meeting.

16. On the afternoon of June 18, 1963 agents of defendant Clark, deputies Weber and Wright, arrested Lafayette for vagrancy on a warrant issued on the affidavit of defendant Clark. He was taken to jail and remained there and was released on \$500 bond on the morning of June 19, 1963.

17. On June 20, 1963 Reese and Lafayette appeared at Dallas County Court for trial. Defendant McLeod, Circuit Solicitor, prosecuted Lafayette. The trial of Reese was postponed until 10:00 a.m. on Thursday, June 27, 1963. Defendant Clark and his agent, deputy Weber, testified against Lafayette on the vagrancy charge. Defendant Clark had conducted no investigation into the charges of vagrancy. He had only heard reports from unidentified sources that Lafayette was begging for money at the mass meetings and Lafayette was not employed. Lafayette was acquitted.

18. The detention, arrest and prosecution by the defendants of Lafayette and Reese and the continuing threat of prosecution of Reese on June 27, 1963 by the defendants were and are without legal justification and/or excuse and were and are for the purpose of intimidating,



threatening, and coercing Negro citizens of Dallas County from applying for registration to vote and for the purpose of preventing and discouraging these Negro citizens and other Negro citizens from encouraging and instructing and assisting Negro citizens in Dallas County to register to vote.

19. Unless restrained by an order of this Court, the defendants will continue to engage in unlawful acts the same or similar to those described in this Complaint and they will continue to go forward with the prosecution of Reese on the charge for which he was arrested on June 17 and will by such unlawful conduct continue to intimidate, threaten, coerce, prevent, hinder, penalize interfere with and discourage Negro citizens of Dallas County from registering to vote and to vote in elections for candidates for federal office.

WHEREFORE, plaintiff respectfully prays:

That this Court issue a preliminary and permanent injunction enjoining the defendants, their agents, servants, employees, and all persons in active concert or participation with them from:

- (a) Intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce any person for the purpose of interfering with the right of that person or any other person to become registered to vote and vote in Dallas County, Alabama, for candidates for federal office, or punishing any person for having registered or attempted to register

to vote and vote for any such candidate;

(b) Striking, threatening to strike, arresting, threatening to arrest, holding in custody, prosecuting or attempting to prosecute any person in the Courts of the State of Alabama for the purpose of interfering with the right of any Negro citizen to become registered or to vote in Dallas County and to vote for candidates for federal office, or for punishment for having previously registered or voted, or engaging in any act or practice which would deprive any Negro citizen of Dallas County, Alabama of any such right or privilege;

(c) Proceeding with the prosecution, failing to return the bond monies or release the sureties on the bond in connection with the prosecution of Bosie Reese in the courts of the State of Alabama on the charges for which he was arrested on June 17, 1963.

That t That this Court retain jurisdiction of this action for the purpose of affording the relief prayed for and any other relief that is or may become appropriate;

and grant to the plaintiff the costs and disbursements  
of this action.

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ROBERT F. KENNEDY  
Attorney General

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BURKE MARSHALL  
Assistant Attorney General

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VERNOL R. JANSEN, JR.  
United States Attorney

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JOHN DOAR  
Attorney  
Department of Justice

A F F I D A V I T

STATE OF ALABAMA     )  
                              )  
COUNTY OF DALLAS    )

My name is Alexander Lionel Brown and I am a Negro. I am 16 years old and I was born in Birmingham, Alabama, which is my home. I live at 1907 Ansley Avenue in Birmingham. I finished my sophomore year in the Western High School in Birmingham, last spring and will begin my junior year this fall. I am a Life Scout and need only two merit badges to become an Eagle Scout. I am active in the Macedonia Baptist Church where I am the first vice-president of the Youth Department and chairman of Youth Activities. I was arrested three times during the demonstrations in Birmingham this spring. One of these charges was dismissed, another was nolle prossed and the third has been appealed to the Federal Courts and I am under appeal bond.

This spring in Birmingham I met Mrs. Colia Lafayette and she told me about the voter registration project that the Student Non-Violent Coordinating Committee was carrying on in Dallas and surrounding counties in Alabama. I have many relatives in Wilcox County which is next to Dallas County and I am interested in Negroes registering to vote. I volunteered to help in this project and Mrs. Lafayette later told me I had been accepted to work this summer on this SNCC project.

I took a bus to Selma, Alabama, on June 4, 1963, and was met there by Bernard Lafayette who is a field-secretary for SNCC working in the Dallas County project. I stayed in Selma three days and worked with Bernard Lafayette.

On June 7, 1963, I went to Wilcox County.. While in that county I talked to Negroes and tried to explain to them the importance of voting, that it was their constitutional right to vote, and tried to encourage them to register to vote. I heard that Bernard Lafayette was beaten in Selma and returned to Selma on June 12th.

While in Selma I worked on the voter registration project there and on Sunday, June 16th I spoke in two Negro churches encouraging their members to register to vote.

On June 17th Bernard Lafayette asked Bosie Reese and myself to go to the Courthouse in Selma to find out how many Negroes were applying for registration to vote. We try to keep track of those who apply so we can make reports on the progress made in our voter registration drive.

Bosie and I drove to the Courthouse and arrived there sometime after noon. The registrar's office on the first floor of the Courthouse was closed but there was a Negro man waiting to apply at the door of the office. I introduced myself and talked with him for about half an hour. While we were talking I asked him if I could take his picture and he said it was all right. I took his picture with the small Kodak Brownie camera I had with me. I wanted the picture for a scrapbook I am keeping on my voter registration work.

A lady came out of one of the nearby offices and I asked her if the registrar's office was closed. She said it was, that the registrars were at lunch and wouldn't be back until about 1:30. The Negro man who was waiting had to be back to work by 1:30 so I offered to give him a ride. Bosie stayed at the Courthouse and I left with the Negro. I returned to the Courthouse about 20 minutes later and found Bosie Reese waiting outside. We sat in the car and after 2 p.m. we went back into the Courthouse. The registrar's office was open and there were some people waiting in a line outside the office. One of the persons was a middle aged Negro man. I asked him if he was waiting to register, his name and address. I asked if he would mind if I took his picture and he said I could.

I didn't take the picture because just before I was going to take his picture an elderly Negro woman stepped into the line. I asked her for her name and address but she said she would give it to Mrs. Boynton after she applied. Mrs. Boynton is a Negro woman who sells insurance in Selma and who is active in the voter registration drive. I recalled that during my talks at the Negro churches the previous day I had asked those who applied to leave their names at Mrs. Boynton's. I decided to go over and see how many had left their names

with her that morning. I gave my camera to Bosie and left him at the Courthouse while I went to Mrs. Boynton's office.

I returned and parked my car across from the side entrance to the Courthouse. Bosie was outside on the sidewalk and he told me that Sheriff Clark had told him to leave the Courthouse. I told Bosie I was going in the Courthouse and he told me if I was going in he was too.

We went into the Courthouse and sat in some chairs on the first floor in the hallway towards the rear of the Courthouse. After a few minutes a white man in a red plaid shirt and blue denim trousers came over to us and asked our names. I didn't know who he was or why he wanted to know who we were. I thought he might be a member of the White Citizens Council. I told him my name was Lewis C. Love and Bosie said he was Tommie Harris. The man was writing this down. He asked me what I was doing there and I told him I was observing. He asked - observing what? I told him I was writing a thesis for my Masters and that I was a student at Alabama State Teachers College. I told him I was observing the registration office and that my thesis was on the ballot. He asked Bosie what he was doing here. Bosie said he was with me. The man then told us we were loitering, that they didn't permit people to loiter in the halls and we would have to leave.

Bosie and I started to leave immediately. We walked through the hall past the registrar's office to the main entrance which is near the Sheriff's office. Bosie was several feet behind me. I opened the door and as I was going through the door I turned and saw a white man grab Bosie by the arm and grab for his head. When I saw this I ran for my car and went immediately to Mrs. Boynton's office where I told Rev. Lafayette what had happened.

That evening I went to the mass meeting concerning voter registration held at the First Baptist Church in Selma, Alabama. During the meeting I had to return to my apartment briefly, about 7:30 or 7:45 p.m. Terry Shaw and another young Negro went with me and we returned to the meeting about fifteen minutes later.

A.L.B.

Just after we parked our car in the parking lot next to the church, a car with about six white men in it drove into the parking lot. They stopped their car behind the parked cars and shined a flash light on the license plates of the parked cars. I stood and watched them for a few minutes and then went back into the meeting.

Alexander Lionel Brown  
Alexander Lionel Brown

Subscribed and sworn to before me this 24 day of June, 1963.

P. L. Lindsey, N.P.  
Notary Public

A F F I D A V I T

STATE OF ALABAMA     )  
                              )  
COUNTY OF DALLAS    )

My name is James E. Gildersleve and I am a Negro. I live at 1726 Green Street in Selma with my wife and two daughters. I am 45 years old. I teach social studies to grades 7 through 12 at Alabama Lutheran Academy and College in Selma. I was born in Marengo County, Alabama, and have lived in Selma for about 10 years. I graduated from Miles College in Birmingham with a B.S. degree in 1951 and in 1958 I received a Master's degree in education from Alabama State College in Montgomery. I served in the United States Army from October, 1941 to October, 1945 and was in combat at Salerno, Italy, in 1943. I am on the mission board of the Lutheran Church, Missouri Synod, Southern District.

In the Fall of 1962, I was elected vice-president of the Dallas County Voters League. The Voters League is an organization of Negroes living in Dallas County and its main objective is to encourage and assist Negroes to become registered voters. The Voters League has been in existence for many years, even before I moved to Dallas County. About the time I became vice-president of the Voters League last year, the Voters League membership was trying to build up interest in voter registration among Dallas County Negroes. We were very concerned because it seemed that the number of Negroes registered to vote in Dallas County was decreasing. Our records disclosed that although we once had 163 Negroes registered, there were now only 156.

Even before being elected vice-president of the Voters League, I had been trying to help Negroes to get registered in Dallas County. I had been asked to be an instructor of a voting clinic and to help organize it. The idea was that we would explain the voting application form to interested Negroes, teach them how to fill out the form correctly and encourage them to go to the



Courthouse to apply. The attempt by the Voters League to set up these clinics was a failure. I recall we actually had only one clinic. One of the problems was that we had no one who could devote time every day to organizing the clinics.

In February, 1963, Rev. Bernard Lafayette, of the Student Non-Violent Coordinating Committee of Atlanta came to Dallas County at the request of the Voters League to help the Voters League in its effort to get Negroes registered to vote. The Voters League had a meeting in February, 1963, and I recall that I made a motion to have Rev. Lafayette work on organizing voting clinics similar to the ones we tried to organize in 1962. Since Rev. Lafayette has been in Dallas County, the Voters League has made tremendous progress. Our efforts had practically come to a standstill before Rev. Lafayette arrived. Since he started to work with us, we have had a lot of interest among Dallas County Negroes in getting registered to vote. A lot of people have come to our clinics that are held every Tuesday and Thursday nights and have been held regularly ever since Rev. Lafayette arrived. I go to these clinics myself and act as an instructor. At these clinics, I, Rev. Lafayette and the other instructors discuss and explain the voter application forms, go over the questions on the forms, tell the people how they may be treated, make arrangements to provide transportation to and from the Courthouse if it is needed and ask voter applicants to notify us when they apply and whether or not they are accepted as voters.

Since Rev. Lafayette came to work with the Voters League, there has been a lot of interest in the Voters League work among young people in Dallas County. These young people have passed out leaflets advertising our mass meetings and other material urging Negroes to become registered voters and have been asked to help their parents become registered.

On May 14, 1963, the Voters League sponsored a mass meeting at the Tabernacle Baptist Church in Selma. This Church is in a Negro neighborhood.

The purpose of the meeting was to create interest in voting registration and to encourage Negroes to go to the Dallas County Courthouse to apply to become a voter. The Voters League also wanted to provide an opportunity to raise money for Rev. L. L. Anderson of Selma, who is scheduled for trial because of a traffic death. I helped arrange the program for the meeting at which James Forman of Atlanta, representing the Student Non-Violent Coordinating Committee, was the main speaker. The program consisted of songs, prayers and speeches by Rev. C. C. Hunter, Rev. Lafayette, Mr. Forman and myself. All the speeches were concerned with encouraging Dallas County Negroes to become voters. When I arrived at the meeting about 7:30 p.m., I saw about 25-30 white men outside the church wearing guns and carrying clubs. Some of them were in uniform and some of them wore khaki clothes and were in what is called by me and other Negroes the sheriff's posse. When I went inside the church I saw three police officers there. They were wearing guns. One of them, from the Dallas County Sheriff's office, was wearing a walkie-talkie and he talked on it throughout the meeting. There were three or four photographers at the meeting. I recognized one of them as being from The Selma Times-Journal. These photographers roamed all over the church and the speaker's platform taking pictures of the people in the audience and on the platform. I have never seen any pictures of this meeting in the Selma, or any other, newspaper. I estimate that about 400 Negroes from Dallas County came to the meeting. There was no trouble during the meeting or after it was over.

The Voters League held a second mass meeting on June 17, 1963, at the First Baptist Church in Selma. This meeting was also to encourage Negro voter registration. The church is in a Negro neighborhood. The guest speaker was Rev. James Bevel of Mississippi. The program was similar to that of the first mass meeting and the speeches by Rev. Bevel, Rev. Lafayette and a short speech I made urged Negroes to become registered voters. About 400-500 Negroes from Dallas County attended and it was a peaceful meeting with no disturbances. When

I arrived at the church about 7:30 p.m., I saw about four automobiles in front of and near the church. In these automobiles were white men, some of them wearing light helmets. I saw that some of these men were copying license plate numbers from cars containing Negroes that drove up to the church. During the meeting, there were three or four white men in the church. The same deputy sheriff, whom I believe is Lt. Suther, had a walkie-talkie and talked on it throughout the meeting. A photographer walked around the church taking pictures of the Negroes present. The meeting ended at about 10 p.m. WJ

On the morning of May 20, 1963, about 10 to 10:30, a Monday and the first registration day in Dallas County following the May 14 mass meeting, I drove two Negro ladies to the Courthouse so they could try to register to vote. They are Dr. Rosa J. Young, who is in her 30's, and Ola Dunning, whom I think is 75 years old. After I had parked my car, I and Rev. L. L. Anderson, who said he was there to try to get registered himself, helped the ladies up the Courthouse steps and into the building where they got in line in the hallway near the registrar's office. I waited there as they had asked me to take them home after completing their applications. A deputy sheriff, whom I believe is Lt. Suther, told me I would have to leave. He didn't say why and I didn't ask why. I left and went outside. After waiting outside for several minutes, I went back inside to ask Dr. Young and Mrs. Dunning how long they thought they would be before they were ready to leave. Mrs. Dunning told me that a photographer had been inside taking pictures and had asked her for my name. I went back outside and saw a photographer with a press camera. ~~I believe he works for the Dallas Times-Journal.~~ JEE I asked him why he was taking pictures. He said he was taking pictures for the newspaper. I told him I hoped he knew what he was doing. About noon, Dr. Young and Mrs. Dunning came out and said that the registrar's office had closed for lunch and they hadn't been

able to apply as yet. I took Mrs. Dunning home and brought her back in the afternoon. I waited outside and I believe I drove both Dr. Young and Mrs. Dunning to their homes after they applied.

James E. Gildersleeve  
James E. Gildersleeve

Subscribed and sworn to before me this 24 day of June, 1963.

J. L. Lindsey, N. P.  
Notary Public

A P P I D A V I T

STATE OF ALABAMA     )  
                          )  
COUNTY OF LALLAS    )

My name is Essie Neese and I am a Negro. I am 19 years old and I have lived in Selma, Alabama, all of my life. I live at 1001 Winter Street in Selma. I finished the 9th grade. I was arrested in 1960 for stealing a bicycle, in 1961 for stealing a watch and twice for driving without a license, once in 1962 and once in 1963.

I have been working for about two months in the voter registration drive being carried on among Negroes in Dallas County, Alabama. Most of the work I have been doing in the drive has been passing out leaflets among Negroes in Selma. These leaflets either give the times, places and speakers for mass meetings to be held in our voter registration drive or else they urge Negroes to register to vote and state the place and times that Negroes can go to the Courthouse in Selma to register to vote. I pass out these leaflets along with other young Negroes at the homes of Negroes or places of business run by Negroes.

On Saturday, June 1, 1963, I was passing out some leaflets with some other Negroes in Selma. These leaflets urged Negroes to apply for registration the next Monday. While we were passing them out, a sheriff's car drove up and a deputy sheriff, I believe his name is Crawford, stopped me and said he had complaints that we were putting the leaflets on cars. He asked me my name, address and what I was doing. I told him we did not put leaflets on cars and gave him one of the leaflets. He asked for more than one so I gave him a stack of them. I went on passing out the leaflets after this.

During the morning of Monday, June 17, 1963, Bernard Lafayette asked me and Alexander Brown, another young Negro, to go to the Courthouse at Selma and to check to see how many Negroes were applying for registration and to

get their names an' addresses. Bernard Lafayette is one of the leaders in the voting registration drive an' we try to keep records on who applies and how the drive is going.

Brown an' I went to the courthouse and got there about 12:30 in the afternoon. The registrar's office was closed and we didn't find anyone waiting to apply. Soon after we got there a young Negro man came in an' waited at the registrar's door. Brown an' I talked to him. Brown got his name, address an' asked him if he could take his picture. The Negro agreed and Brown took a picture of him posed with his hand on the door as though he was going in to register. The Negro waited until about 1:20 and no registrars had shown up yet so he left to go back to work. Brown left with him.

I waited in the hallway on the first floor of the courthouse near the door to the registrar's office until about 1:40 p.m. No one else had come so I went outside an' waited on the sidewalk in front of the courthouse. Brown returned and we waited in his car until shortly after 2:00 p.m. when we went back into the courthouse.

The registrar's office was open and it looked like some people were in applying. There was a white woman waiting outside the office to apply and a Negro man waiting behind her. Brown asked the Negro for his name an' address an' asked him if he could take his picture. The Negro said he could, but before Brown took his picture a Negro lady came up and stood behind the Negro man in the line. Brown talked to the lady. She didn't give him her name an' address but said she would give it to Mrs. Boynton after she applied. Mrs. Boynton is a Negro woman active in the voter registration drive.

After talking to the Negro woman Brown said he was going over to Mrs. Boynton's office and asked me to wait for him in the courthouse. He gave me his camera and left. It is a small Brownie camera and I hung it around my neck. I went down the hallway to the next door down from the registrar's office and waited next to the wall. After standing there a short while Sheriff Clark

walked over to me and asked me what I was doing, what was my name and asked me for my identification. He asked me what I was doing with a camera around my neck. I told him the camera belonged to a friend and that I was waiting for him to come back. He told me he had had complaints that I had been loitering in the hall and asked me to leave. I left.

I waited outside for Brown and he came back shortly after I left the Courthouse. I told him what had happened and gave him back his camera. Brown said he was going back in and I told him if he was going back then I would go back too. We went into the Courthouse from the side entrance and sat in some chairs toward the rear of the hallway on the first floor. Just after we sat down a man came by and asked us about what we were doing there. He told us we were loitering and that we would have to leave. Brown walked down the hall past the line by the registrars' office and started out the entrance. I followed him by about three feet.

Just as Brown was walking out the door I reached to hold the door open. I hadn't seen the sheriff around but just then someone grabbed me by the hand and neck, got behind me and shoved me into the sheriff's office which is by the entrance. It was Sheriff Lark. He pushed me through the sheriff's office and shoved me down the stairs at the back of the office. I kept my feet and was able to keep from falling down the stairs. At the bottom of the stairs he shoved me into another office over next to a chair that was leaning against the wall. He slapped at me but I put my hands in front of my face and the blows hit my hands.

He told me to pick up the chair and sit in it. After I sat down he hit me over the head with a billy stick three times and punched me twice in the stomach and once in the side with it. He could have swung harder but I still got a lump on my head from it. He said- Didn't I tell you to stay out of here. I told him yes but I had to come back in to get some change. He took everything out of my pockets, looked at some of the cards and papers in my billfold and then took it all out of the office.

There was a man in a highway patrol uniform sitting behind the desk and an old man sitting in another chair in the room. The man in the uniform asked me if I knew how to swim. I told him I did and then he asked me if I knew how to swim with a block of cement on my feet.

The sheriff came back downstairs and asked me if I was working with Bernard. I didn't answer and he asked me if I knew what they did with smart niggers around here. The elderly man said the highway patrolman had just told me what they did with smart niggers.

A deputy sheriff came downstairs and asked me if I knew the name of the other person who was with me. I started to say no and the sheriff kicked me and told me not to sit up there and tell a lie. I told him the other person's name was Lewis Brown. They asked me where he lived and I told them three houses off Jeff Davis on Sylvan Street. I didn't tell him because I didn't want to get him into the trouble I was in. The deputy sheriff and the sheriff left.

The highway patrolman told me he was going to beat all the nigger out of me and make me white. About this time a young man in civilian clothes came in. He had a gun on. He asked me who was taking the pictures and I told him I wasn't taking any pictures. The highway patrolman and elderly man left the room. This young man kept questioning me about the camera and what I was doing with it. He kept questioning me in a threatening way and tried to get me to admit that I was taking a picture of the water fountain in the hallway. I kept insisting I hadn't taken a picture of the water fountain and he told me I was lying and that I was calling a lady a liar.

After a short while the sheriff came back and he took me back to the upstairs office. On the way upstairs he punched me in the back with the billy stick. Upstairs he got some warrants and he and a deputy took me over to the Judge's Office in a building in town. While we were there I think the Judge changed one of the warrants. They charged me with two things and set bail at \$1,000 on one of them and \$500 on the other. Then they took me back



to the courthouse and then over to the jail. At the jail they asked me questions about my name, address, age and took pictures and finger printed me.

I couldn't cover the bond and I had to stay in jail until about 10:30 Friday morning when two Negroes named Moss and Rev. Brown signed the bond for me. In court on Thursday the Judge postponed my trial for one week and lowered my bond on the one charge from \$1,000 to \$500 at the request of my attorneys.

This affidavit has been read to me by David H. Martin, an attorney for the Department of Justice, and I understand it and it is true and correct to the best of my knowledge.

Bessie Reese  
Bessie Reese

Subscribed and sworn to before me this 24 day of June, 1963.

P. L. Lindsey  
Notary Public

B.R.

A F F I D A V I T

STATE OF ALABAMA     }  
COUNTY OF DALLAS    }

My name is Bernard Lafayette, Jr. I am 22 years old and a Negro. I was born in Tampa, Florida and I graduated from Midleton Senior High School in Tampa in 1958. I attended the American Baptist Theological Seminary in Nashville, Tennessee, from October, 1958 to May, 1961. I transferred to Fisk University in Nashville and attended Fisk for one semester from January to June, 1962. I am a license minister by the New Hope Baptist Church in Tampa and New Heights Baptist Church in Nashville. I have never had a church ministry. I am married and have no children.

I interrupted my college education to work with the Student Non-Violent Coordinating Committee (SNCC) of Atlanta. I am now, and have been since September, 1961, except for my semester at Fisk, a SNCC field secretary. SNCC is an organization of Negroes and some white persons. One of its main activities is to work in various states assisting Negroes to become registered voters. Often SNCC is asked by Negro leaders and organizations to come into their local communities and help them in their voting registration efforts.

In November, 1962, the Dallas County (Alabama) Voters League requested assistance from the Southern Regional Council in Atlanta in getting Dallas County Negroes to become voters. One of the functions of the Southern Regional Council is to assist Negro voting registration and the Council contacted SNCC concerning the Dallas County request. I was then working on Negro voting registration in Mississippi for SNCC and SNCC asked me and I agreed to go to Dallas County to determine if such a project was desirable at that time. I thought, after spending a few days in Selma, the county seat of Dallas County, that it was. In February, 1963, I was named by SNCC the director of the Central Alabama Voter Registration Project. The project was to help local Negro leaders and organization in getting Negroes registered as voters in Dallas, Wilcox and other Alabama counties.

I returned to Dallas County on February 10, 1963 to start work in helping the Dallas County Voters League in its effort of assisting Negroes to become voters. I have been working in Dallas County on this project continuously since February 10, 1963, except for a few days spent in other nearby Alabama counties working on voting registration. I am here at the invitation of the Voters League, an organization of Negroes living in Dallas County, and I work in cooperation with it. The purpose of the Voters League is to assist every eligible person in Dallas County who desires it to become a registered voter. The Voters League holds meetings once a month and I am a member. I make reports to the Voters League of my activities and make suggestions for future plans and action. The membership of the Voters League discusses my suggestions and those from other members and a consensus comes from the meetings which guides my activities. My function is to provide the organization needed to accomplish the Voters League goal. B.D.

In carrying out my work with the Voters League, I have recruited about 50 young people from Dallas County to help with the project. I also have had the help of a paid field worker for the last two weeks, a 16 year old Negro boy from Birmingham named Alexander Brown. These young people I have recruited pass out leaflets and other printed matter advertising voter's clinics and mass meetings, teach eligible people who want to apply for registration to vote how to properly fill out application forms and try to determine how many Negroes go to the Dallas County courthouse to make application for voting registration and how many of those who apply are accepted.

Our program has also included establishing voters' clinics. They are held every Tuesday and Thursday nights at Franklin Street in Selma or, at times at the Shiloh Baptist Church in Bogie Shitta, Alabama. The purpose of these clinics is to have Negroes who wish to register come and learn the procedure. I try to attend every clinic and so do the officers of the Voters League. We explain to the people who attend what the requirements are to become a voter. We show them sample application forms and we teach them the meaning of all the questions on the form and show them how the form should be filled out. We tell

them what to expect at the courthouse when they go there to apply and we ask them to let us know when they go to the courthouse and whether they were able to fill out an application form. We ask them to let us know if they were accepted or rejected.

The voter's clinics have been held each Tuesday and Thursday nights since January 29, 1963. I know that the records of the Voters League, which are kept by <sup>a B.L. instructor</sup> the Voters League secretary, Mrs. Marie Foster, show that 90 different persons have attended at least one clinic since January 29. Three people attended the two meetings held in January; in February, 53 persons attended; in March, 27 persons attended; in April, 35 persons attended; in May, 46 persons attended; and up to and including the clinic of June 20, 1963, 11 persons have attended in June, 1963.

The Voters League has also sponsored two mass meetings in order to encourage Negroes to try to become registered voters. These meetings were held on May 14 and June 17. We advertise the meetings well in advance by passing out leaflets, by calling at people's homes and by speaking at churches and other organizations.

The voters' clinics became much busier after the May 14 mass meeting was publicized and then held. Our records show that nine persons attended the voters' clinic of May 11; that 12 persons attended the clinic of May 21; that eight persons attended the clinic of May 23; that two persons attended the clinic of May 28; and that nine persons attended the clinic of May 30. We have not had more than three persons at a clinic during the month of June, 1963.

The first mass meeting was held on May 14 at the Tabernacle Baptist Church in Selma, which is in a Negro living section of Selma. The guest speaker was James Forman of Atlanta, executive-secretary of SNCC. I arrived at the church about 6:30 p.m., an hour before the meeting was to start. When I arrived there were about four police cars containing white men either parked near the church or driving around near the church. There were about 10 uniformed officers and other white men not in police uniforms standing across the street from the church. They wore or carried guns and clubs and some of them had helmets on th

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beams. There were no other white persons in the vicinity of the church and Negroes had not yet begun to arrive for the mass meeting. I went inside the church for a committee meeting and then came back outside about 7:30. At this time I saw many more cars and trucks, some carrying white men, around the church. I saw about 30 white men standing around in the uniform of the city police or the sheriff's office or dressed in khaki clothes with helmets. They all seemed to be armed with guns and clubs. I and other Negroes refer to the men in khaki clothes as the sheriff's posse. I believe they live in Dallas County and are deputized by the sheriff of the county. This night they were obviously a part of the law enforcement group at the church.

The mass meeting began with a prayer by Rev. O. C. Hunter of Selma. A hymn was sung and speeches were made about the need for Negroes to become registered voters by Rev. Hunter, Mr. Silversleeve, vice-president of the Voters League, myself and Mr. Orman. A prayer was said for Mr. J. L. Boynton who died that day. Mr. Boynton had been president of the Voters League. A collection was taken for Rev. L. M. Anderson who is facing a trial arising from a traffic accident and Rev. Anderson thanked everyone. Praise songs were sung and the meeting closed with a benediction. Rev. Hunter and I had urged the people to leave the meeting quietly and to go directly home. The meeting, at which I estimate 400-450 Negro persons attended, was conducted peacefully and there were no disturbances. Throughout the meeting two deputy sheriffs from the Dallas County sheriff's office and one person whom I believe is a city policeman were inside the church. They were armed with pistols. One of the deputy sheriffs, named Guther, stood at the back door with a walkie-talkie which he used throughout the meeting. The other two took notes. There were about four photographers and a movie camera man inside the church taking pictures of the audience and the people on the speaker's platform.

The day following the meeting, May 15, a front news story appeared on the front page of the Selma Times-Journal. The story said that I was a speaker and that I urged a massive turnout of Negroes at the May 20th meeting of the Dallas County Board of Registrars. It stated that I had been in Selma for the

last 60 days to organize the mass meeting and that I had said at the meeting that there were enough Negroes in Dallas County to decide who its elected officials would be. A copy of this newspaper article is attached to this affidavit.

On June 11, 1963, I was going to my home on Union Street in Selma at about 11:00 p.m. A car was parked in the middle of the street directly in front of my house and a white man was seated behind the driver's wheel. Another white man, who was standing by this car, asked me to push their car as it wouldn't start. I attempted to push the car and the white man who was standing on the street asked me to get out of my car to make sure the bumpers met. I got out of my car and when I did, this man struck me several times on the head with a blunt object <sup>B.X.</sup> and kicked me. Then this man jumped into the car with the other white man and they drove away. I phoned the Selma police and they came to my house to talk to me. I then went to the Murwell Infirmary where six stitches were put in my scalp. The police also talked to me at the hospital. I also reported this beating and gave a statement to the Federal Bureau of Investigation. To my knowledge, these white men have not been arrested.

On the morning of June 17, I asked a 19 year old Negro boy from Selma named Leslie Reese who has been helping the Voters League in its activities to go with Alexander Brown to the Dallas County Courthouse and see how many Negroes were attempting to register to vote. This was a regular voters registration day at the courthouse. I told Reese and Brown to find out the names and addresses of any Negroes who were there and apply so that the Voters League would have a record of that and then could also contact these people to see if they were accepted. We have had a lot of difficulty keeping track of the numbers of Negroes who apply to register and finding out who was accepted. The Voters League records show that 31 Negroes have applied to register to vote since January 29, 1963, but I know and the officers of the Voters League know that many more have applied. I had previously told Reese and Brown of the importance of taking pictures of Negroes who were attempting to register. The Voters League wants pictures of Negroes waiting to register so that these pictures can be shown to other Negroes in Dallas County and they can be told and shown

that it is possible to try to get registered. I heard that afternoon from Brown that Reese had been taken by Dallas County Sheriff Clark into the sheriff's office. I went to his office to see the sheriff to find out whether Reese had been arrested. I asked the sheriff about Reese and he told me Reese had been arrested for failure to obey an officer and for resisting arrest. The sheriff asked my name and I told him what it is. This was the first time I had ever talked to Sheriff Clark. I left and went to the county jail, where Reese was being held, to see whether a bond had been set for Reese. While at the jail, I saw a paper that said Reese was charged with *action calculated to provoke* *B.L.* breach of the peace and resisting arrest.

That night, June 17, the Voters League sponsored its second mass meeting at the First Baptist Church in Dallas, which is in a Negro living area of the city. The meeting was scheduled to start at 7:00 p.m. and the guest speaker was Rev. James Bevel of Mississippi. This meeting had also been advertised in advance by the distribution of leaflets, by word of mouth and by speeches at churches and other organizations. I arrived at the church about 7:00 p.m. and saw a man in the uniform of a deputy sheriff shining a long flashlight on the license plates of cars parked in the church's parking lot and copying down the numbers from these license plates. I saw about three city police and three sheriff's cars there. Two of these cars were parked near the church and the others were being driven around in the vicinity of the church by uniformed officers. The meeting began about 7:30 p.m. Rev. Bevel of Dallas County, a Negro, began the meeting with a prayer. Mrs. Foster, *an instructor B.L.* the secretary of the Voters League, told everyone that the purpose of the meeting was to encourage people to become voters. Hymns and freedom songs were sung and Jackson L. Lawson presented a citation to Mrs. M. M. Boynton on behalf of her late husband. Mrs. Boynton responded with her thanks and Mrs. M. M. Anderson led a memorial prayer for Mr. Boynton. A financial appeal was made on behalf of the Voters League by Mr. Lindsey, a Selma Negro and then I spoke about the importance of voting and the need to encourage people to become

registered voters. I introduced Rev. Bevel who spoke about voting and urged the Negroes there to work on getting people registered in Dallas County. Mr. Gildersleeve, <sup>A.L.</sup> vice-president of the Voters League, made an appeal for voter registration, announced when the clinics would be held, talked about the work of the Voters League and told when registration would be held at the courthouse in July. Rev. Cleveland closed the meeting at about 9:45 with remarks and a benediction. There were no disturbances during the meeting. I believe there were about 500 Negroes from Dallas County at the meeting. Just like the last mass meeting on May 1, there were two deputy sheriffs and, I believe, a Dallas policeman, inside the church throughout the meeting. One of the deputy sheriffs, again Butcher, had a walkie-talkie and he used it during the meeting. The other two officers took notes. There was a photographer, whom I recognized as being from the El Paso Times-Journal, at the meeting and he walked around the church taking pictures of the Negroes in the church. When the meeting was over I went outside the church and saw some of the sheriff's posse, wearing khaki clothes and guns and helmets, sitting in cars parked outside the church and driving around in cars near the church. Newspaper articles about this mass meeting, stating that I was one of the speakers, appeared the following day, June 13, in the Montgomery Advertiser and the Birmingham News.

On the evening of June 13, a Tuesday, the Voters League had a regularly scheduled voter's clinic at Franklin Street in Dallas. Only one person showed up so the Voters League officers soon had a committee meeting. When it was over, about 10:30 p.m., I and a 17 year old Negro boy from Dallas County named Perry Shaw, who has been helping the Voters League in its work, got into my car. I planned to drive him home and then go to my home. After crossing the intersection of Alabama Avenue while going north on Washington Avenue, we noticed that a sheriff's car was behind us with a flashing light. We pulled over to the curb and stopped. I got out of my car and Deputy Sheriff Weber and another officer got out of the sheriff's car. Weber asked to see my driver's license and I showed it to him. He said he had a warrant for my arrest and he had a folded paper in my hand. I asked him what the charge was and he said it was



vagrancy. I was then taken by Deber to the county jail on Alabama Avenue where I was searched. At the jail I asked Deber if I could see the warrant but he didn't let me read it. I asked him why I was being arrested for vagrancy and Deber said he was following orders. I found out later that Sheriff Clark had sworn out a warrant for my arrest on vagrancy. I was placed in a cell with <sup>Black B.L.</sup> Louis Reese and the following morning I was fingerprinted and photographed. That afternoon I was released after Mrs. Marie Foster and Henry Shannon, both members of Selma, signed a 500 property bond for me. Both before and after my arrest, no one from the sheriff's office, the Selma police or anyone else has ever talked to me about how much money I had or whether I was employed.

This was not my first arrest. Since I helped organize in February, 1960, the Nashville Non-Violent Movement, an affiliate of SNCC, when I was a student at the Seminary in Nashville, I have been arrested approximately nine times. All of these arrests have been connected with my activities with SNCC or with other civil rights activities and I have never been arrested or convicted of any offense not arising from my civil rights activities.

I was tried for vagrancy on June 20 in the county court in Selma before a judge. I was found not guilty. I was defended by attorneys Chestnut of Selma and Seay of Montgomery. The Voters League is going to pay for the legal expenses.

As a SNCC field secretary, all of my personal and work expenses are paid for by SNCC, including room, board, transportation, telephone, postage, office supplies and printing. I telephoned the SNCC office in Atlanta to tell them of my financial needs and they sent me money. I account in detail to SNCC for all money I receive from SNCC and I operate on a specific budget. When I was arrested on June 15, I had \$27.75 with me. I do not owe any money to anyone in Selma or Dallas County. I pay \$40 a month rent for my apartment and the rent was paid in advance for the month of June at the time of my arrest.

*Bernard Lafayette*  
BERNARD LAFAYETTE, JR.

Subscribed and sworn to before me this 24 day of June, 1963.

*P. K. Lindsey, N.P.*  
Notary Public

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION

UNITED STATES OF AMERICA, )

Plaintiff, )

v. )

DALLAS COUNTY: JAMES G. )  
CLARK, JR., Sheriff of )  
Dallas County, Alabama; )  
BLANCHARD MCLEOD, Circuit )  
Solicitor of the Fourth )  
Judicial District of Ala- )  
bama; HENRY REESE, County )  
Solicitor of Dallas County, )  
Alabama, )

Defendants. )

CIVIL ACTION NO. \_\_\_\_\_

PROPOSED ORDER TO SHOW CAUSE  
AND TEMPORARY RESTRAINING ORDER

It appearing from the affidavits of Bernard Lafayette, Jr., Bosie Reese, Alexander L. Brown and James E. Gildersleeve, filed by the plaintiff in support of its application for a temporary restraining order and order to show cause that pursuant to the request of Negro citizens of Dallas County, Alabama, Bernard Lafayette, Jr., Field Secretary of the Student Non-Violent Coordinating Committee, came to Dallas County, Alabama on February 10, 1963 for the purpose of assisting in a Negro voter registration drive and has remained there until the present time; that Bernard Lafayette, Jr., helped organize classes in Dallas County, Alabama to teach eligible Negroes

the procedure of voting registration, to recruit young people of Dallas County to assist him and the Voters' League, organized mass meetings to encourage interest in voting registration and gave publicity to all these activities; that the leadership of Bernard Lafayette, Jr. resulted in a significant increase of interest in voter registration and attempts to register to vote among Negro citizens of Dallas County; that on June 11, 1963 Bernard Lafayette, Jr. was attacked and beaten by an unidentified white man; that on June 17, 1963 Bosie Reese who was in the Dallas County Courthouse to observe voter registration and report his observations to the Voters' League, was ordered to leave the courthouse by defendant Dallas County Sheriff James G. Clark; that Bosie Reese obeyed this order but, when he subsequently re-entered the courthouse, was arrested by Sheriff Clark and charged with conduct calculated to provoke the breach of the peace and resisting arrest; that on the evening of June 17, 1963 Bernard Lafayette, Jr. spoke at a mass meeting in Dallas County and urged Negroes in Dallas County to register to vote and that Sheriff Clark had agents inside the mass meeting reporting and recording what was said; that on the night of June 18, 1963 Bernard Lafayette, Jr. was arrested by deputies of Sheriff Clark and charged with vagrancy on an affidavit sworn out by Sheriff Clark; that on June 20, 1963 Bernard Lafayette, Jr. was tried for vagrancy and, there being no foundation to the charge, was acquitted; that on June 20, 1963 the trial of Bosie Reese was postponed until June 27, 1963; that the purpose of the defendants in arresting, detaining and prosecuting without any legal foundation or cause, Bosie Reese and Bernard Lafayette, Jr. was to intimidate,

threaten and coerce Negro citizens of Dallas County from applying for registration to vote and to intimidate, threaten and coerce Negro citizens of Dallas County and other Negro citizens from encouraging and instructing and assisting Negro citizens in Dallas County to register to vote; that unless a temporary restraining order is granted as prayed for the plaintiff will suffer great irreparable injury before the matter can be heard on notice because the serious legal consequences which Bosie Reese and Bernard Lafayette, Jr. have suffered and the serious legal consequences which Bosie Reese will suffer have intimidated, threatened and coerced unregistered Negro citizens of Dallas County from exercising their present right under the Constitution and laws of the United States to register to vote and to vote in any election, including elections for candidates for federal offices; all to the immediate and irreparable injury to the plaintiff.

And the Court being of the opinion that this is a proper case for the granting of an order to show cause and a temporary restraining order, now therefore,

IT IS HEREBY ORDERED that each of the defendants named in the Complaint appear before this Court in the courtroom of the Federal District Court for the Southern District of Alabama at the Post Office Building in \_\_\_\_\_, Alabama, at \_\_\_\_\_ o'clock \_\_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 1963, then and there to show cause, if any they have, why they, and each of them, and any of their agents, employees, representatives, and all persons in active concert or participation with said defendants should not be enjoined and

restrained from engaging in, or performing, directly or indirectly, any and all of the following acts:

- (a) Intimidating, threatening, coercing, or attempting to intimidate, threaten or coerce any person for the purpose of interfering with the right of that person or any other person to become registered to vote and vote in Dallas County, Alabama, for candidates for federal office, or punishing any person for having registered or attempted to register to vote and vote for any such candidates;
- (b) Striking, threatening to strike, arresting, threatening to arrest, holding in custody, prosecuting or attempting to prosecute any person in the Courts of the State of Alabama for the purpose of interfering with the right of any Negro citizen to become registered or to vote in Dallas County and to vote for candidates for federal office, or for punishment for having previously registered or voted, ~~or~~ engaging in any act or practice which would deprive any Negro citizen of Dallas County, Alabama of any such right or privilege;
- (c) Proceeding with the prosecution, failing to return the bond monies or release the sureties on the bond in connection with the prosecution of Bosie Reese in the courts of the State of Alabama on the

charges for which he was arrested on  
June 17, 1963.

IT IS FURTHER ORDERED that pending the hearing of the order to show cause, the defendants, and each of them, and their agents, employees, representatives, and all persons acting in concert or participation with them, shall be and hereby are restrained and enjoined from engaging in, or performing, directly or indirectly, any and all of the following acts:

Proceeding with the prosecution, failing to return the bond monies or release the sureties on the bond in connection with the prosecution of Bosie Reese in the courts of the State of Alabama on the charges for which he was arrested on June 17, 1963.

IT IS FURTHER ORDERED that a copy of the affidavits and the application, together with a copy of this order to show cause and temporary restraining order, and a copy of the Complaint be served by the United States Marshal of this District on the defendants forthwith.

Dated this \_\_\_\_\_ day of June, 1963 at  
\_\_\_\_\_ o'clock \_\_\_\_\_ m.

UNITED STATES DISTRICT JUDGE